

**STATE OF ILLINOIS
SECRETARY OF STATE
SECURITIES DEPARTMENT**

IN THE MATTER OF: MICHAEL R. GERBAC

FILE NO. 0400480

NOTICE OF HEARING

TO THE RESPONDENT:

Michael R. Gerbac
(CRD #. 2950327)
213 W. Lake Street
Barrington, Illinois 60010

You are hereby notified that pursuant to Section 11.F of the Illinois Securities Law of 1953 [815 ILCS 5] (the "Act") and 14 Ill. Adm. Code 130, subpart K, a public hearing will be held at 69 West Washington Street, 12th Floor, Chicago, Illinois 60602, on the 10th day of November, 2004 at the hour of 10.00 a.m., or as soon as possible thereafter, before James G Athas, Esq. or such other duly designated Hearing Officer of the Secretary of State.

Said hearing will be held to determine whether an Order shall be entered revoking Michael R. Gerbac's (the "Respondent") registration as a salesperson in the State of Illinois and/or granting such other relief as may be authorized under the Act including but not limited to the imposition of a monetary fine in the maximum amount pursuant to Section 11.E(4) of the Act, payable within ten (10) business days of the entry of the Order.

The grounds for such proposed action are as follows:

- 1 That at all relevant times, the Respondent was registered with the Secretary of State as a salesperson in the State of Illinois pursuant to Section 8 of the Act until April 10, 2003
2. That on May 28, 2004, NASD entered a Letter of Acceptance, Waiver and Consent (AWC) submitted by the Respondent regarding File No. C8A040043 which barred him from association in any capacity with any member of the NASD.

Notice of Hearing

-2-

3. That the AWC found.
 - a. On or about April 30, 2002, LH, a member of the public, gave the Respondent a check made payable to the Member with instructions that the funds be deposited in a money market account. He misused LH's funds by failing to follow her instructions in that he deposited the \$60,000 check in a checking account in the name of "Michael R. Gerbec DBA Michael Gerbec Agency," used the funds for some purpose other than the benefit of LH; and then, after LH demanded the funds be returned, returned total of \$58,883.42 to LH over a period from September 26, 2002 to February 28, 2003, in violation of NASD Conduct Rule 2110 and 2330; and
 - b. On June 17, and July 15, 2003, NASD staff sent requests for information by certified mail, return receipt requested, and first class mail to the Respondent at his address of record, and even though he provided some responses to the requests for information, he failed to fully respond to the requested information in that, he failed to provide: requested information regarding an alleged joint savings account; an explanation regarding what he did with LH's \$60,000; and documentation to show how LH's funds were used, in violation of NASD Rules 2110 and 8210.
4. That Section 8 E(1)(j) of the Act provides, inter alia, that the registration of a salesperson may be revoked if the Secretary of State finds that such salesperson has been suspended by any self-regulatory organization registered under the Federal 1934 Act or the Federal 1974 Act arising from any fraudulent or deceptive act or a practice in violation of any rule, regulation or standard duly promulgated by the self-regulatory organization.
5. That NASD is a self-regulatory organization as specified in section 8.E(1)(j) of the Act
6. That Section 8.E(3) of the Act provides, inter alia, withdrawal of an application for registration or withdrawal from registration as a salesperson, becomes effective 30 days after receipt of an application to withdraw or within such shorter period of time as the Secretary of State may determine. If no proceeding is pending or instituted and withdrawal automatically becomes effective, the Secretary of State may nevertheless institute a revocation or suspension proceeding within 2 years after withdrawal became effective and enter a revocation or suspension order as of the last date on which registration was effective.

Notice of Hearing

-3-

7. That by virtue of the foregoing, the Respondent's registration as a salesperson in the State of Illinois is subject to revocation, effective April 10, 2003, pursuant to Sections 8.E(1)(j) and 8.E(3) of the Act.

You are further notified that you are required pursuant to Section 130.1104 of the Rules and regulations (14 Ill. Adm. Code 130) (the "Rules"), to file an answer to the allegations outlined above within thirty (30) days of the receipt of this notice. A failure to file an answer within the prescribed time shall be construed as an admission of the allegations contained in the Notice of Hearing.

Furthermore, you may be represented by legal counsel; may present evidence, may cross-examine witnesses and otherwise participate. A failure to so appear shall constitute default, unless any Respondent has upon due notice moved for and obtained a continuance.

A copy of the Rules, promulgated under the Act and pertaining to Hearings held by the Office of the Secretary of State, Securities Department, is included with this Notice.

Delivery of notice to the designated representative of any Respondent constitutes service upon such Respondent

DATED: This 23rd day of September 2004

Attorney for the Secretary of State:
Daniel A. Tunick
Office of the Secretary of State
Illinois Securities Department
17 North State Street, Suite 1266
Chicago, Illinois 60602
Telephone: (312) 793-3384

Hearing Officer.
James G. Athas
180 W. Washington
Suite 710
Chicago, IL 60602
Telephone: (312) 357-2870


JESSE WHITE
Secretary of State
State of Illinois